

To: 'Bulleit, Kristy'[kbulleit@hunton.com]; 'Rachel Jean-Baptiste'[jean-baptiste@eli.org]; 'Lindley, Tom (Perkins Coie)'[TLindley@perkinscoie.com]; 'Brown, Samuel L. (SIBrown@hunton.com)'[SIBrown@hunton.com]; 'Iwilcher@elpolaw.com'[Iwilcher@elpolaw.com]; 'Julia Anastasio[janastasio@acwa-us.org]; 'Boer, J. Tom (JTBoer@hunton.com)'[JTBoer@hunton.com]; 'Cynthia S Campbell (cynthia.campbell@phoenix.gov)'[cynthia.campbell@phoenix.gov]; 'jeanne.christie@aswm.org'[jeanne.christie@aswm.org]; 'GTCroot@imesacorp.com'[GTCroot@imesacorp.com]; 'kdonovan@mwdh2o.com'[kdonovan@mwdh2o.com]; 'Dravis, Samantha[dravis.samantha@epa.gov]; 'Duncan, Deidre'[dduncan@hunton.com]; 'Pamela Esterman'[pesterman@sprlaw.com]; 'Daniel Estrin (destrin@waterkeeper.org)'[destrin@waterkeeper.org]; 'Ford, Peter[Ford.Peter@epa.gov]; 'david.fotouhi@epa.gov'[david.fotouhi@epa.gov]; 'Jan Goldman-Carter'[goldmancarterj@nwf.org]; 'ragu-jara.gregg@usdoj.gov'[ragu-jara.gregg@usdoj.gov]; 'david@davidguestlaw.net'[david@davidguestlaw.net]; 'elin@hunton.com'[elin@hunton.com]; 'Charlie Logue (charlie.logue@alexrenew.com)'[charlie.logue@alexrenew.com]; 'mlopez@nezperce.org'[mlopez@nezperce.org]; 'hmeltzer@law.nyc.gov'[hmeltzer@law.nyc.gov]; 'jennifer.a.moyer@usace.army.mil'[jennifer.a.moyer@usace.army.mil]; 'jmueller@cbf.org'[jmueller@cbf.org]; 'Nagle, Deborah[Nagle.Deborah@epa.gov]; 'ruizg@si.edu'[ruizg@si.edu]; 'mr@ryankuehler.com'[mr@ryankuehler.com]; 'jerry_schwartz@afandpa.org'[jerry_schwartz@afandpa.org]; 'Tack, Jon (jon.tack@dnr.iowa.gov)'[jon.tack@dnr.iowa.gov]; 'cthomas@perkinscoie.com'[cthomas@perkinscoie.com]; 'Traylor, Patrick[traylor.patrick@epa.gov]; 'Weinberg, Meredith (Perkins Coie)'[MWeinberg@perkinscoie.com]
Cc: Pamela McCutcheon[pmcutcheon@ali-cle.org]
From: Amy Weinberg
Sent: Mon 11/27/2017 7:32:40 PM
Subject: Final details for next week's ALI CLE/ELI Clean Water Act conference

Dear Faculty,

To make sure that everyone is prepared for the upcoming *Clean Water Act* conference taking place next Monday-Tuesday, December 4-5, I wanted to reach out on a few final items:

1. **Conference location:** The course will be held in the offices of Hunton & Williams LLP, located at 2200 Pennsylvania Avenue NW. When you arrive at the building, please stop at the security desk in the lobby to have your name checked off a list and be cleared to access the elevators.
2. **Materials:** The book of course materials has been finalized and the link to download these materials will be sent out to registrants (and yourselves) tomorrow. If by chance you are preparing a last-minute PowerPoint, it will be placed in a separate "handouts" folder and then added to the e-book after the course has ended. Please send me any last-minute PowerPoints no later than Thursday, November 30, so that we can have it pre-loaded onto the laptop in the meeting room.

Speaking of materials --- don't forget that ALI CLE has gone green. There will NOT be paper copies of the course materials this year. You will receive the link that will be sent out, and you can choose to print it if you want, or save it to a tablet or laptop that you can bring to the course. We will have ample power strips in the rooms to keep you charged.

3. **Faculty Dinner:** We will have a faculty dinner on Monday evening, Dec. 4 at 6:00 at Founding Farmers, located at 1924 Pennsylvania Avenue NW, a short walk from H&W. Please let me know if you will be able to attend the dinner so that I can confirm the reservation. If I don't hear from you this week, I will assume that you are not able to attend.

4. **Networking Lunch:** On Monday we will be providing lunch to both faculty and registrants, so we hope that you will stay and network with the attendees.

5. **CLE Credit:** If you need CLE credit for your participation/attendance, please make sure that you put your name on the appropriate state sign-in sheets that will be out on tables for the duration of the program. You will receive the attendance certs by email after the course. We invite and encourage you to attend as much of the course as your schedule allows.

6. **Comp and discounted registrations:** If you have not yet done so, this is your final opportunity to sign up a colleague or contact to attend the program for free. Just send me their complete contact information, and we'll get them registered. Additional colleagues may attend at half price using the ALIFACULTY coupon code at registration (online or through ALI CLE customer service – 800-CLE-NEWS). This discount can also be used for the live video webcast.

If you have any questions in the coming days, please do not hesitate to contact me. Thank you in advance for the great contributions you've already made through your comprehensive written materials and preparations. I have no doubt that the course will be a valuable experience for everyone!

Amy S. Weinberg

Senior Program Attorney, Office of Content Production

American Law Institute CLE

4025 Chestnut Street

Philadelphia, PA 19104

215-243-1668

aweinberg@ali-cle.org

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Scott Segal[scott.segal@bracewell.com]
From: Zelsermyer, Salo
Sent: Sun 6/25/2017 1:03:06 PM
Subject: Fwd: Alert: Trump to Call for U.S. 'Dominance' in Global Energy Production

Morning Samantha -- saw this and wanted to just point out that the idea we discussed would fit nicely with this theme. Look forward to catching up sometime this week.

Best

Salo

Subject: Alert: Trump to Call for U.S. 'Dominance' in Global Energy Production

Trump to Call for U.S. 'Dominance' in Global Energy Production

By Jennifer A. Dlouhy | June 25, 2017 07:00AM ET | Bloomberg Government

Donald Trump will tout surging U.S. exports of oil and natural gas during a week of events aimed at highlighting the country's growing energy dominance.

The president also plans to emphasize that after decades of relying on foreign energy supplies, the U.S. is on the brink of becoming a net exporter of oil, gas, coal and other energy resources.

As with previous White House policy-themed weeks, such as a recent one focusing on infrastructure, the framing is designed to draw attention to Trump's domestic priorities and away from more politically treacherous matters such as multiple investigations into Russian interference in the 2016 election.

With "Energy Week," Trump is returning to familiar territory -- and to the coal, oil, and gas industries on which he's already lavished attention. Trump's first major policy speech on the campaign trail, delivered in the oil drilling hotbed of North Dakota in 2016, focused on his plans for unleashing domestic energy production. The issue has also been a

Energy: Oil and Gas: Hydraulic Fracturing News Alert

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Trump is set to deliver a speech at the Energy Department on Thursday

ship more

ordered agencies

considering

televised address

jdlohy1@bloomberg.net

jmorgan97@bloomberg.net

Manage Alerts

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Knauss, Chuck
Sent: Mon 7/10/2017 2:06:05 PM
Subject: RE:
2017-01-17 APF Petition for Reconsideration Refrigerant Mgmt Requirement...-c.pdf

Samantha -- here is our petition for reconsideration. Please give me a call with any questions on this. As you probably know, we had a meeting with DOJ, OGC, Mandy, and the program office a couple of weeks ago. Best regards, Chuck. My cell number is: 202-257-0628.

-----Original Message-----

From: Dravis, Samantha [mailto:dravis.samantha@epa.gov]
Sent: Monday, July 10, 2017 9:54 AM
To: Knauss, Chuck
Subject:

Hi Charles,

Can you send me a copy of the petition for reconsideration by the Air Permitting Forum on refrigerant management requirements?

Thanks,
Samantha

Sent from my iPad

To: Traylor, Patrick[traylor.patrick@epa.gov]
Cc: Dravis, Samantha[dravis.samantha@epa.gov]
From: Brown, Samuel L.
Sent: Fri 8/25/2017 4:21:06 PM
Subject: RE: Environmental Law Institute | Speaker Invitation

Outstanding. I'll be in touch again soon – Sam

From: Traylor, Patrick [mailto:traylor.patrick@epa.gov]
Sent: Friday, August 25, 2017 9:20 AM
To: Brown, Samuel L.
Cc: Dravis, Samantha
Subject: Re: Environmental Law Institute | Speaker Invitation

I'm in.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

On Aug 25, 2017, at 11:02 AM, Brown, Samuel L. <SlBrown@hunton.com> wrote:

That's great, Samantha! I'll be in touch with more details.

Patrick, just let me know when you can. Thanks! – Sam

From: Dravis, Samantha [mailto:dravis.samantha@epa.gov]
Sent: Friday, August 25, 2017 6:01 AM
To: Brown, Samuel L.; Traylor, Patrick
Subject: RE: Environmental Law Institute | Speaker Invitation

Hi Samuel,

I'm available.

From: Brown, Samuel L. [<mailto:SlBrown@hunton.com>]
Sent: Thursday, August 24, 2017 8:31 PM
To: Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Dravis, Samantha <dravis.samantha@epa.gov>
Subject: RE: Environmental Law Institute | Speaker Invitation

Hi Patrick & Samantha

Just checking in to see if you're interested and available to join the ELI conference and panel in D.C. on Dec. 4? Thanks! – Sam

From: Brown, Samuel L.
Sent: Monday, August 14, 2017 8:02 PM
To: Traylor, Patrick
Cc: Dravis, Samantha
Subject: RE: Environmental Law Institute | Speaker Invitation

Hi Patrick,

Of course.

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to be more interesting, with increased audience attention. That being said, I defer to your preference, either way works for me.

In terms of substance, the working title of the panel is: *EPA Regulatory Reform and Enforcement Trends: What Does the Future Hold?* Bottom line, I think most people outside the Agency are curious about the change(s) in direction of this EPA from the prior Administration on certain subject matter and the practical implications. For example, for this panel, in the context of enforcement, what are EPA's enforcement priorities; are there plans to modify the existing NEIs; what is the fate of the prior administration's focus on next generation compliance; etc. In the context of policy/regulatory reform, EPA's thoughts on the comments received as part of the regulatory reform efforts per Exec. Order 13777; what action item(s) have resulted/will result; thoughts on reform on how EPA conducts rulemaking/considers science; are there any planned organizational/institutional reforms; and, generally, an update on the priorities of the Trump Administration and Administrator Pruitt.

Bottom line is folks would love to hear from both of you, and the scope of the subject matter covered should only be what you're comfortable covering, so we can tailor the subject matter to fit your preferences. For example, if we use the latter format above, I would draft a set of questions and then have you screen them for sensitive subject matter that you don't want to cover as part of the panel and conversation.

In terms of the ELI event, other panels will cover (i) waters of the United States; (ii) citizen suits; (iii) State implementation: issues and opportunities; (iv) emerging issues in water quality; (v) stormwater and eNGO-related litigation; (vi) water transfers and the Second Circuit opinion; among other issues. There are other confirmed and invited EPA speakers (from OGC, OW, and Regions), other federal agencies (*e.g.*, Corps), and state agencies (*e.g.*, Ben Grumbles, Maryland, Secretary of the Environment; Michael Lauffer, Chief Counsel, California State Water Resources Control Board; Tom Johnson, Solicitor General, West Virginia; and Basil Seggos, Commissioner, New York State, Department of Environmental Conservation), in addition to the private sector and academia.

I hope that gives you a better sense of the panel and the event. Please let me know if you have additional question or if you'd like to chat on the phone. I hope it works out that you're both able to participate and I look forward to working with you.

Samantha, FYI, my colleagues Rod Hastie and Joe Stanko were going to extend the invitation to you. After speaking with Rod, it appears they had not reached out yet, so I

apologize if this conversation is coming out of the blue.

Thanks! – Sam

<image001.jpg> **Samuel Brown**

Senior Attorney

slbrown@hunton.com

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f 415.975.3775

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From: Traylor, Patrick [<mailto:traylor.patrick@epa.gov>]
Sent: Monday, August 14, 2017 4:57 PM
To: Brown, Samuel L.
Cc: Dravis, Samantha
Subject: RE: Environmental Law Institute | Speaker Invitation

Sam:

Would you mind giving us some more information on how you'd like the panel to work and what you might want us to cover?

Best,

Patrick

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Brown, Samuel L. [<mailto:SlBrown@hunton.com>]

Sent: Monday, August 14, 2017 12:18 PM

To: Traylor, Patrick <traylor.patrick@epa.gov>

Subject: Environmental Law Institute | Speaker Invitation

Hi Patrick,

I am reaching out because I am helping to plan the Environmental Law Institute's (ELI) conference on the Clean Water Act (CWA) on December 4-5 in Washington D.C. ELI sponsors this event every year and I've been involved for some time. It is for private and public sector professionals experienced in the CWA (not an introductory-level conference).

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- Samantha Dravis, AA, EPA Office of Policy.
- Mark Ryan, Ryan and Kuehler (former EPA attorney for 25+ years).

It would be great if you could join the panel to discuss enforcement. Please let me know if you have any questions or would like more information on the event.

Thanks! – Sam

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To: Brown, Samuel L. [SIBrown@hunton.com]
Cc: Dravis, Samantha [dravis.samantha@epa.gov]
From: Traylor, Patrick
Sent: Fri 8/25/2017 4:20:09 PM
Subject: Re: Environmental Law Institute | Speaker Invitation

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To: Dravis, Samantha[dravis.samantha@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
From: Brown, Samuel L.
Sent: Fri 8/25/2017 4:01:34 PM
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From: Brown, Samuel L.
Sent: Tue 11/14/2017 1:00:24 AM
Subject: RE: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Works for me, Patrick. I'll reach back out closer to the event with any additional substantive or logistical thoughts – Sam

From: Traylor, Patrick [mailto:traylor.patrick@epa.gov]
Sent: Monday, November 13, 2017 7:05 AM
To: Brown, Samuel L.; Dravis, Samantha; Mark Ryan
Subject: RE: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Sam, thanks. The materials you've provided are very helpful; I don't believe there's a need to have a pre-meeting.

Patrick Traylor

Deputy Assistant Administrator

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(202) 809-8796 (cell)

From: Brown, Samuel L. [mailto:SlBrown@hunton.com]
Sent: Monday, November 13, 2017 12:37 AM
To: Dravis, Samantha <dravis.samantha@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Mark Ryan <mr@ryankuehler.com>
Subject: RE: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Hi Samantha, Patrick, and Mark,

I am following up on the email below. Does sometime this week work for you for a 30 minute call to touch base on the panel? I'll be in Georgia most of this week for work, so on EST.

Thanks!

– Sam

From: Brown, Samuel L.
Sent: Sunday, November 05, 2017 8:13 PM
To: Dravis, Samantha; 'Traylor, Patrick'; 'Mark Ryan'
Subject: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Hi Samantha, Patrick, and Mark,

Thank you again for agreeing to participate in the ELI and ALI-CLE conference on the Clean Water Act in Washington D.C. on Monday, December 4 from 3:00pm – 4:30pm.

Attached is an overview of how I am thinking to structure our panel. The attachment includes representative moderated questions that I would suggest that I tee up for discussion. Again, the thought is no slide decks, just moderated discussion and then Q&A with the audience. I welcome your input and suggestions, in particular on the moderated questions. I welcome any subject matter that you would like to highlight or discuss. Samantha/Patrick, I understand there may be subject matter that is sensitive that you would like to not discuss, so I can tailor the conversation around any concerns that you may have.

I think it makes sense to have a short call to touch base. Does Wednesday or Friday this week work for you? Samantha/Patrick, if you have schedulers I am happy to work with them to get 30 minutes on your calendars.

Thanks so much and talk to you soon! – Sam

**HUNTON &
WILLIAMS** **Samuel Brown**

Senior Attorney

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p 415.975.3714

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Hunton & Williams LLP
50 California Street
Suite 1700
San Francisco, CA 94105

hunton.com

To: Traylor, Patrick[traylor.patrick@epa.gov]
Cc: Dravis, Samantha[dravis.samantha@epa.gov]
From: Brown, Samuel L.
Sent: Fri 8/25/2017 12:31:27 AM
Subject: RE: Environmental Law Institute | Speaker Invitation

Hi Patrick & Samantha

Just checking in to see if you're interested and available to join the ELI conference and panel in D.C. on Dec. 4? Thanks! – Sam

From: Brown, Samuel L.
Sent: Monday, August 14, 2017 8:02 PM
To: Traylor, Patrick
Cc: Dravis, Samantha
Subject: RE: Environmental Law Institute | Speaker Invitation

Hi Patrick,

Of course.

In terms of the panel's format, I think we have two options: (1) each of you speaks on a topic(s) with a slide deck and we leave 15 minutes at the end for Q&A; or (2) I prepare a list of questions on relevant topics and I ask each of you questions in a more informal conversation format. In my experience, I enjoy moderating panels that use the latter format. Using that format I think we can convey the same information, but the panels tend to be more interesting, with increased audience attention. That being said, I defer to your preference, either way works for me.

In terms of substance, the working title of the panel is: *EPA Regulatory Reform and Enforcement Trends: What Does the Future Hold?* Bottom line, I think most people outside the Agency are curious about the change(s) in direction of this EPA from the prior Administration on certain subject matter and the practical implications. For example, for this panel, in the context of enforcement, what are EPA's enforcement priorities; are there plans to modify the existing NEIs; what is the fate of the prior administration's focus on next generation compliance; etc. In the context of policy/regulatory reform, EPA's thoughts on the comments received as part of the

regulatory reform efforts per Exec. Order 13777; what action item(s) have resulted/will result; thoughts on reform on how EPA conducts rulemaking/considers science; are there any planned organizational/institutional reforms; and, generally, an update on the priorities of the Trump Administration and Administrator Pruitt.

Bottom line is folks would love to hear from both of you, and the scope of the subject matter covered should only be what you're comfortable covering, so we can tailor the subject matter to fit your preferences. For example, if we use the latter format above, I would draft a set of questions and then have you screen them for sensitive subject matter that you don't want to cover as part of the panel and conversation.

In terms of the ELI event, other panels will cover (i) waters of the United States; (ii) citizen suits; (iii) State implementation: issues and opportunities; (iv) emerging issues in water quality; (v) stormwater and eNGO-related litigation; (vi) water transfers and the Second Circuit opinion; among other issues. There are other confirmed and invited EPA speakers (from OGC, OW, and Regions), other federal agencies (*e.g.*, Corps), and state agencies (*e.g.*, Ben Grumbles, Maryland, Secretary of the Environment; Michael Lauffer, Chief Counsel, California State Water Resources Control Board; Tom Johnson, Solicitor General, West Virginia; and Basil Seggos, Commissioner, New York State, Department of Environmental Conservation), in addition to the private sector and academia.

I hope that gives you a better sense of the panel and the event. Please let me know if you have additional question or if you'd like to chat on the phone. I hope it works out that you're both able to participate and I look forward to working with you.

Samantha, FYI, my colleagues Rod Hastie and Joe Stanko were going to extend the invitation to you. After speaking with Rod, it appears they had not reached out yet, so I apologize if this conversation is coming out of the blue.

Thanks! – Sam

 **Samuel Brown**

Senior Attorney

slbrown@hunton.com

p 415.975.3714

f

[bio](#) | [vCard](#)

Hunton & Williams LLP
575 Market St.
Suite 3700
San Francisco, CA 94105

[hunton.com](#)

From: Traylor, Patrick [<mailto:traylor.patrick@epa.gov>]
Sent: Monday, August 14, 2017 4:57 PM
To: Brown, Samuel L.
Cc: Dravis, Samantha
Subject: RE: Environmental Law Institute | Speaker Invitation

Sam:

Would you mind giving us some more information on how you'd like the panel to work and what you might want us to cover?

Best,

Patrick

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Brown, Samuel L. [<mailto:SlBrown@hunton.com>]
Sent: Monday, August 14, 2017 12:18 PM
To: Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Environmental Law Institute | Speaker Invitation

Hi Patrick,

I am reaching out because I am helping to plan the Environmental Law Institute's (ELI) conference on the Clean Water Act (CWA) on December 4-5 in Washington D.C. ELI sponsors this event every year and I've been involved for some time. It is for private and public sector professionals experienced in the CWA (not an introductory-level conference).

I am putting together a panel on *EPA Regulatory Reform and Enforcement Trends: What Does the Future Hold?* I was hoping you could join this panel on Monday, December 4. I will be the moderator. The other folks invited to the panel are:

- Samantha Dravis, AA, EPA Office of Policy.
- Mark Ryan, Ryan and Kuehler (former EPA attorney for 25+ years).

It would be great if you could join the panel to discuss enforcement. Please let me know if you have any questions or would like more information on the event.

Thanks! – Sam

HUNTON & WILLIAMS Samuel Brown

Senior Attorney

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f 415.975.3775

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Hunton & Williams LLP
575 Market St.
Suite 3700
San Francisco, CA 94105

[hunton.com](#)

To: Dravis, Samantha[dravis.samantha@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Mark Ryan[mr@ryankuehler.com]
From: Brown, Samuel L.
Sent: Mon 11/6/2017 4:13:17 AM
Subject: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?
[Policy and Enforcement Panel Overview \(ELI-ALICLE\).docx](#)

Hi Samantha, Patrick, and Mark,

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Attached is an overview of how I am thinking to structure our panel. The attachment includes representative moderated questions that I would suggest that I tee up for discussion. Again, the thought is no slide decks, just moderated discussion and then Q&A with the audience. I welcome your input and suggestions, in particular on the moderated questions. I welcome any subject matter that you would like to highlight or discuss. Samantha/Patrick, I understand there may be subject matter that is sensitive that you would like to not discuss, so I can tailor the conversation around any concerns that you may have.

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Thanks so much and talk to you soon! – Sam

 **Samuel Brown**

Senior Attorney

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94105

[hunton.com](#)

To: Dravis, Samantha[dravis.samantha@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Mark Ryan[mr@ryankuehler.com]
From: Brown, Samuel L.
Sent: Wed 11/8/2017 8:41:27 PM
Subject: FW: Important reminders for the December ALI CLE/ELI CWA conference

Samantha, Patrick and Mark,

Re: the email below, I'll take care of the material for our panel – Sam

From: Amy Weinberg [mailto:aweinberg@ali-cle.org]
Sent: Wednesday, November 08, 2017 12:05 PM
To: Bulleit, Kristy; 'Lindley, Tom (Perkins Coie)'; 'Rachel Jean-Baptiste'; Brown, Samuel L.; 'lwilcher@elpolaw.com'; 'janastasio@acwa-us.org'; Boer, J. Tom; Brown, Samuel L.; 'jeanne.christie@aswm.org'; 'GTCroot@imesacorp.com'; 'kdonovan@mwdh2o.com'; 'Dravis.samantha@epa.gov'; Duncan, Deidre; 'pesterman@sprlaw.com'; 'destrin@waterkeeper.org'; 'david.fotouhi@epa.gov'; 'ragu-jara.gregg@usdoj.gov'; 'david@davidguestlaw.net'; 'hmeltzer@law.nyc.gov'; 'jennifer.a.moyer@usace.army.mil'; 'jmueller@cbf.org'; 'nagle.deborah@epa.gov'; 'karen.pallansch@alexrenew.com'; 'karen.peters@phoenix.gov'; 'ruizg@si.edu'; 'mr@ryankuehler.com'; 'cthomas@perkinscoie.com'
Cc: Pamela McCutcheon
Subject: RE: Important reminders for the December ALI CLE/ELI CWA conference

Hi everyone,

If you are receiving this email it is because the deadline for written materials was this past Monday and I did not receive anything from you. If you are planning to submit a powerpoint, paper, article, etc., I need it NO LATER than next Wednesday, November 15. We need to have the materials finalized ahead of Thanksgiving, as they will be released to the registrants for download the Monday immediately after Thanksgiving (one week before the course).

Please note that we need at least one piece of written material PER PANEL to ensure CLE credit will be awarded.

Many thanks for your cooperation with our deadlines. Please do not hesitate to reach out with any questions or concerns.

Amy

From: Amy Weinberg

Sent: Wednesday, October 25, 2017 4:04 PM

To: 'Bulleit, Kristy'; 'Lindley, Tom (Perkins Coie)'; 'Rachel Jean-Baptiste'; 'Brown, Samuel L. (SIBrown@hunton.com)'; 'lwilcher@elpolaw.com'; 'janastasio@acwa-us.org'; 'jtboer@hunton.com'; 'slbrown@hunton.com'; 'jeanne.christie@aswm.org'; 'GTCroot@imesacorp.com'; 'kdonovan@mwdh2o.com'; 'Dravis.samantha@epa.gov'; 'dduncan@hunton.com'; 'pesterman@sprlaw.com'; 'destrin@waterkeeper.org'; 'ford.peter@epa.gov'; 'david.fotouhi@epa.gov'; 'goldmancarterj@nwf.org'; 'ragu-jara.gregg@usdoj.gov'; 'david@davidguestlaw.net'; 'mlopez@nezperce.org'; 'hmeltzer@law.nyc.gov'; 'jennifer.a.moyer@usace.army.mil'; 'jmueller@cbf.org'; 'nagle.deborah@epa.gov'; 'karen.pallansch@alexrenew.com'; 'karen.peters@phoenix.gov'; 'ruizg@si.edu'; 'mr@ryankuehler.com'; 'jerry_schwartz@afandpa.org'; 'cthomas@perkinscoie.com'; 'james.tierney@dec.ny.gov'; 'traylor.patrick@epa.gov'; 'mweinberg@perkinscoie.com'

Cc: Pamela McCutcheon

Subject: Important reminders for the December ALI CLE/ELI CWA conference

Dear Faculty,

Thank you in advance for agreeing to speak at the American Law Institute CLE/ELI conference, ***Clean Water Act: Law and Regulation***, taking place on December 4-5 at Hunton & Williams LLP in Washington, DC. This email serves as a reminder about some important approaching deadlines:

1. **WRITTEN MATERIALS:** Written materials are due **NOVEMBER 6**. This deadline also applies to power points, should you choose to use them. All documents should be emailed directly to my assistant Pam (copied here) and myself. Although we are not printing coursebooks anymore, for accreditation purposes it is still essential that each panel has some sort of materials to supplement the presentation. Attendees will be able to download the materials ahead of time, as well as access them while at the course on a laptop or tablet. If you feel that you may need a few extra days to complete your materials, please let me know so that we can plan accordingly.
2. **HOTEL RESERVATIONS:** If you are traveling to DC from out of town, now is the time to book your hotel. We have small blocks available at 2 nearby hotels; the room blocks both expire on NOVEMBER 6 as well. Relevant info on the 2 blocks is pasted below my signature block for those who need it.

3. COMPS and DISCOUNTED REGISTRATIONS: As a speaker, you are automatically registered for the conference on a complimentary basis and we hope that you will attend as much as your schedule allows. Further, you have not already done so, please invite colleagues and other contacts to attend this course complimentary or at a greatly reduced faculty rate. You are each entitled to one guest who may attend in person (or by webcast) free of charge. Just send me that individual's contact information and I will have them registered.

Additional colleagues, clients, etc. who are not already registered may also attend with your faculty discount for 50% off the regular tuition. To take advantage of this discount, they can sign up at <http://www.ali-cle.org/CZ010> and enter the coupon code **ALIFACULTY** at checkout. Our goal, like yours, is to ensure a broad audience for this program. As the best promotion is often word-of-mouth, we encourage you to help us raise awareness by notifying your colleagues and clients and inviting them to attend. Please note that this discount applies to both in person and webcast registration fees.

Please do not hesitate to contact me with any questions regarding this conference. Thanks!

Amy S. Weinberg

Senior Program Attorney, Office of Content Production

American Law Institute CLE

4025 Chestnut Street

Philadelphia, PA 19104

215-243-1668

aweinberg@ali-cle.org

HOTEL BLOCK INFORMATION

Hotel Lombardy, room rate: \$179 per night, single occupancy. This rate will be made available until **November 6, 2017**. Request the American Law Institute CLE group to qualify for the reduced rate. Reservations may be made by calling the Hotel Lombardy, 2019 Pennsylvania Avenue NW, Washington, DC 20006; (202) 828-2600 or (800) 424-5486, or online here: <https://www.reservations-page.com/C00519/H11150/ov.aspx?pc=L3627>

Renaissance Washington, DC Dupont Circle Hotel, room rate \$219 per night for a standard room. This rate will be made available until **November 6, 2017**. Request the American Law Institute CLE Clean Water Act group to qualify for the reduced rate. Reservations may be made by calling the Renaissance Washington, DC Dupont Circle Hotel 1143 New Hampshire Avenue, NW, Washington, DC 20037; (800) 468-3571 or (202) 775-0800, or online here: <https://aws.passkey.com/event/49128443/owner/1687/home>

To: Amy Weinberg[aweinberg@ali-cle.org]
Cc: Bulleit, Kristy[kbulleit@hunton.com]; Lindley, Tom (Perkins Coie)[TLindley@perkinscoie.com]; Rachel Jean-Baptiste[jean-baptiste@eli.org]; Brown, Samuel L. (SIBrown@hunton.com)[SIBrown@hunton.com]; lwilcher@elpolaw.com[lwilcher@elpolaw.com]; jtboer@hunton.com[jtboer@hunton.com]; jeanne.christie@aswm.org[jeanne.christie@aswm.org]; GTCroot@imesacorp.com[GTCroot@imesacorp.com]; kdonovan@mwdh2o.com[kdonovan@mwdh2o.com]; Dravis, Samantha[dravis.samantha@epa.gov]; dduncan@hunton.com[dduncan@hunton.com]; pesterman@sprlaw.com[pesterman@sprlaw.com]; destrin@waterkeeper.org[destrin@waterkeeper.org]; david.fotouhi@epa.gov[david.fotouhi@epa.gov]; ragu-jara.gregg@usdoj.gov[ragu-jara.gregg@usdoj.gov]; david@davidguestlaw.net[david@davidguestlaw.net]; hmeltzer@law.nyc.gov[hmeltzer@law.nyc.gov]; jennifer.a.moyer@usace.army.mil[jennifer.a.moyer@usace.army.mil]; jmueller@cbf.org[jmueller@cbf.org]; Nagle, Deborah[Nagle.Deborah@epa.gov]; karen.pallansch@alexrenew.com[karen.pallansch@alexrenew.com]; karen.peters@phoenix.gov[karen.peters@phoenix.gov]; ruizg@si.edu[ruizg@si.edu]; mr@ryankuehler.com[mr@ryankuehler.com]; cthomas@perkinscoie.com[cthomas@perkinscoie.com]; Pamela McCutcheon[pmccutcheon@ali-cle.org]
From: Julia Anastasio
Sent: Wed 11/8/2017 8:07:26 PM
Subject: Re: Important reminders for the December ALI CLE/ELI CWA conference

Hi Amy

I sent a slew of documents on Monday to Pam. Can you check with her to make sure she got them.

Sent from my iPhone

On Nov 8, 2017, at 3:04 PM, Amy Weinberg <aweinberg@ali-cle.org> wrote:

Hi everyone,

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with any questions or concerns.

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From: Amy Weinberg

Sent: Wednesday, October 25, 2017 4:04 PM

To: 'Bulleit, Kristy'; 'Lindley, Tom (Perkins Coie)'; 'Rachel Jean-Baptiste'; 'Brown, Samuel L. (SlBrown@hunton.com)'; 'lwilcher@elpolaw.com'; 'janastasio@acwa-us.org'; 'jtboer@hunton.com'; 'slbrown@hunton.com'; 'jeanne.christie@aswm.org'; 'GTCroot@imesacorp.com'; 'kdonovan@mwdeh2o.com'; 'Dravis.samantha@epa.gov'; 'dduncan@hunton.com'; 'pesterman@sprlaw.com'; 'destrin@waterkeeper.org'; 'ford.peter@epa.gov'; 'david.fotouhi@epa.gov'; 'goldmancarterj@nwf.org'; 'ragu-jara.gregg@usdoj.gov'; 'david@davidquestlaw.net'; 'mlopez@nezperce.org'; 'hmeltzer@law.nyc.gov'; 'jennifer.a.moyer@usace.army.mil'; 'jmueller@cbf.org'; 'nagle.deborah@epa.gov'; 'karen.pallansch@alexrenew.com'; 'karen.peters@phoenix.gov'; 'ruizg@si.edu'; 'mr@ryankuehler.com'; 'jerry.schwartz@afandpa.org'; 'cthomas@perkinscoie.com'; 'james.tierney@dec.ny.gov'; 'traylor.patrick@epa.gov'; 'mweinberg@perkinscoie.com'

Cc: Pamela McCutcheon

Subject: Important reminders for the December ALI CLE/ELI CWA conference

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signature block for those who need it.

3. COMPS and DISCOUNTED REGISTRATIONS: As a speaker, you are automatically registered for the conference on a complimentary basis and we hope that you will attend as much as your schedule allows. Further, you have not already done so, please invite colleagues and other contacts to attend this course complimentary or at a greatly reduced faculty rate. You are each entitled to one guest who may attend in person (or by webcast) free of charge. Just send me that individual's contact information and I will have them registered.

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Amy S. Weinberg

Senior Program Attorney, Office of Content Production

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To: 'Bulleit, Kristy'[kbulleit@hunton.com]; 'Lindley, Tom (Perkins Coie)'[TLindley@perkinscoie.com]; 'Rachel Jean-Baptiste'[jean-baptiste@eli.org]; 'Brown, Samuel L. (SIBrown@hunton.com)'[SIBrown@hunton.com]; 'Iwilcher@elpolaw.com'[Iwilcher@elpolaw.com]; 'Julia Anastasio[janastasio@acwa-us.org]; 'jtboer@hunton.com'[jtboer@hunton.com]; 'slbrown@hunton.com'[slbrown@hunton.com]; 'jeanne.christie@aswm.org'[jeanne.christie@aswm.org]; 'GTCroot@imesacorp.com'[GTCroot@imesacorp.com]; 'kdonovan@mwdh2o.com'[kdonovan@mwdh2o.com]; 'Dravis, Samantha[dravis.samantha@epa.gov]; 'dduncan@hunton.com'[dduncan@hunton.com]; 'pesterman@sprlaw.com'[pesterman@sprlaw.com]; 'destrin@waterkeeper.org'[destrin@waterkeeper.org]; 'david.fotouhi@epa.gov'[david.fotouhi@epa.gov]; 'ragu-jara.gregg@usdoj.gov'[ragu-jara.gregg@usdoj.gov]; 'david@davidguestlaw.net'[david@davidguestlaw.net]; 'hmeltzer@law.nyc.gov'[hmeltzer@law.nyc.gov]; 'jennifer.a.moyer@usace.army.mil'[jennifer.a.moyer@usace.army.mil]; 'jmueller@cbf.org'[jmueller@cbf.org]; 'Nagle, Deborah[Nagle.Deborah@epa.gov]; 'karen.pallansch@alexrenew.com'[karen.pallansch@alexrenew.com]; 'karen.peters@phoenix.gov'[karen.peters@phoenix.gov]; 'ruizg@si.edu'[ruizg@si.edu]; 'mr@ryankuehler.com'[mr@ryankuehler.com]; 'cthomas@perkinscoie.com'[cthomas@perkinscoie.com]
Cc: Pamela McCutcheon[pmccutcheon@ali-cle.org]
From: Amy Weinberg
Sent: Wed 11/8/2017 8:04:52 PM
Subject: RE: Important reminders for the December ALI CLE/ELI CWA conference

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Sent: Wednesday, October 25, 2017 4:04 PM
To: 'Bulleit, Kristy'; 'Lindley, Tom (Perkins Coie)'; 'Rachel Jean-Baptiste'; 'Brown, Samuel L. (SIBrown@hunton.com)'; 'Iwilcher@elpolaw.com'; 'janastasio@acwa-us.org'; 'jtboer@hunton.com'; 'slbrown@hunton.com'; 'jeanne.christie@aswm.org'; 'GTCroot@imesacorp.com';

'kdonovan@mwdh2o.com'; 'Dravis.samantha@epa.gov'; 'dduncan@hunton.com';
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'goldmancarterj@nwf.org'; 'ragu-jara.gregg@usdoj.gov'; 'david@davidguestlaw.net';
'mlopez@nezperce.org'; 'hmeltzer@law.nyc.gov'; 'jennifer.a.moyer@usace.army.mil'; 'jmueller@cbf.org';
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'james.tierney@dec.ny.gov'; 'traylor.patrick@epa.gov'; 'mweinberg@perkinscoie.com'

Cc: Pamela McCutcheon

Subject: Important reminders for the December ALI CLE/ELI CWA conference

Dear Faculty,

Thank you in advance for agreeing to speak at the American Law Institute CLE/ELI conference, ***Clean Water Act: Law and Regulation***, taking place on December 4-5 at Hunton & Williams LLP in Washington, DC. This email serves as a reminder about some important approaching deadlines:

1. **WRITTEN MATERIALS:** Written materials are due **NOVEMBER 6**. This deadline also applies to power points, should you choose to use them. All documents should be emailed directly to my assistant Pam (copied here) and myself. Although we are not printing coursebooks anymore, for accreditation purposes it is still essential that each panel has some sort of materials to supplement the presentation. Attendees will be able to download the materials ahead of time, as well as access them while at the course on a laptop or tablet. If you feel that you may need a few extra days to complete your materials, please let me know so that we can plan accordingly.
2. **HOTEL RESERVATIONS:** If you are traveling to DC from out of town, now is the time to book your hotel. We have small blocks available at 2 nearby hotels; the room blocks both expire on NOVEMBER 6 as well. Relevant info on the 2 blocks is pasted below my signature block for those who need it.
3. **COMPS and DISCOUNTED REGISTRATIONS:** As a speaker, you are automatically registered for the conference on a complimentary basis and we hope that you will attend as much as your schedule allows. Further, you have not already done so, please invite colleagues and other contacts to attend this course complimentary or at a greatly reduced faculty rate. You are each entitled to one guest who may attend in person (or by webcast) free of charge. Just send me that individual's contact information and I will have them registered.

Additional colleagues, clients, etc. who are not already registered may also attend with your faculty discount for 50% off the regular tuition. To take advantage of this discount, they can sign up at <http://www.ali-cle.org/CZ010> and enter the coupon code **ALIFACULTY** at checkout. Our goal, like yours, is to ensure a broad audience for this program. As the best promotion is often word-of-mouth, we encourage you to help us raise awareness by notifying your colleagues and clients and inviting them to attend. Please note that this discount applies to both in person and webcast registration fees.

Please do not hesitate to contact me with any questions regarding this conference. Thanks!

Amy S. Weinberg

Senior Program Attorney, Office of Content Production

American Law Institute CLE

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Philadelphia, PA 19104

215-243-1668

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HOTEL BLOCK INFORMATION

Hotel Lombardy, room rate: \$179 per night, single occupancy. This rate will be made available until **November 6, 2017**. Request the American Law Institute CLE group to qualify for the reduced rate. Reservations may be made by calling the Hotel Lombardy, 2019 Pennsylvania Avenue NW, Washington, DC 20006; (202) 828-2600 or (800) 424-5486, or online here: <https://www.reservations-page.com/C00519/H11150/ov.aspx?pc=L3627>

Renaissance Washington, DC Dupont Circle Hotel, room rate \$219 per night for a standard room. This rate will be made available until **November 6, 2017**. Request the American Law Institute CLE Clean Water Act group to qualify for the reduced rate. Reservations may be made by calling the Renaissance Washington, DC Dupont Circle Hotel 1143 New Hampshire Avenue, NW, Washington, DC 20037; (800) 468-3571 or (202) 775-0800, or online here: <https://aws.passkey.com/event/49128443/owner/1687/home>

To: Brown, Samuel L.[SIBrown@hunton.com]; Dravis, Samantha[dravis.samantha@epa.gov]; Mark Ryan[mr@ryankuehler.com]
From: Traylor, Patrick
Sent: Mon 11/13/2017 3:04:52 PM
Subject: RE: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Sam, thanks. The materials you've provided are very helpful; I don't believe there's a need to have a pre-meeting.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Brown, Samuel L. [mailto:SIBrown@hunton.com]
Sent: Monday, November 13, 2017 12:37 AM
To: Dravis, Samantha <dravis.samantha@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Mark Ryan <mr@ryankuehler.com>
Subject: RE: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Hi Samantha, Patrick, and Mark,

I am following up on the email below. Does sometime this week work for you for a 30 minute call to touch base on the panel? I'll be in Georgia most of this week for work, so on EST.

Thanks!

– Sam

From: Brown, Samuel L.
Sent: Sunday, November 05, 2017 8:13 PM
To: Dravis, Samantha; 'Traylor, Patrick'; 'Mark Ryan'
Subject: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Hi Samantha, Patrick, and Mark,

Thank you again for agreeing to participate in the ELI and ALI-CLE conference on the Clean Water Act in Washington D.C. on Monday, December 4 from 3:00pm – 4:30pm.

Attached is an overview of how I am thinking to structure our panel. The attachment includes representative moderated questions that I would suggest that I tee up for discussion. Again, the thought is no slide decks, just moderated discussion and then Q&A with the audience. I welcome your input and suggestions, in particular on the moderated questions. I welcome any subject matter that you would like to highlight or discuss. Samantha/Patrick, I understand there may be subject matter that is sensitive that you would like to not discuss, so I can tailor the conversation around any concerns that you may have.

I think it makes sense to have a short call to touch base. Does Wednesday or Friday this week work for you? Samantha/Patrick, if you have schedulers I am happy to work with them to get 30 minutes on your calendars.

Thanks so much and talk to you soon! – Sam

 **Samuel Brown**

Senior Attorney

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To: Dravis, Samantha[dravis.samantha@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Mark Ryan[mr@ryankuehler.com]
From: Brown, Samuel L.
Sent: Mon 11/13/2017 5:37:11 AM
Subject: RE: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?
[Policy and Enforcement Panel Overview \(ELI-ALICLE\).docx](#)

Hi Samantha, Patrick, and Mark,

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– Sam

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Subject: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

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Thanks so much and talk to you soon! – Sam

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January 17, 2017

VIA FACSIMILE-CERTIFIED MAIL-EMAIL

The Honorable Gina McCarthy
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mccarthy.gina@epa.gov
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The Honorable Janet McCabe
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code: 6101A
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mccabe.janet@epa.gov

Re: Petition for Reconsideration

Dear Administrator McCarthy and Assistant Administrator McCabe:

Please find attached a Petition for Reconsideration filed on behalf of the Air Permitting Forum with respect to the rule entitled *Protection of Stratospheric Ozone: Update to the Refrigerant Management Requirements Under the Clean Air Act, Final Rule*, 81 Fed. Reg. 82,272 (Nov. 18, 2016), codified at 40 C.F.R. Part 82, EPA-HQ-OAR-2015-0453.

Feel free to contact me (415.975.3718) to discuss the Petition.

Sincerely,

Shannon S. Broome

Attachment

**BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

)	
IN RE: PROTECTION OF STRATOSPHERIC)	
OZONE: UPDATE TO THE REFRIGERANT)	DOCKET ID. NO.
MANAGEMENT REQUIREMENTS UNDER THE)	EPA-HQ-OAR-2015-0453
CLEAN AIR ACT, FINAL RULE,)	
81 FED. REG. 82,272 (Nov. 18, 2016))	
)	

PETITION FOR RECONSIDERATION

by

THE AIR PERMITTING FORUM

SHANNON S. BROOME
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Counsel for the Air Permitting Forum

Dated: January 17, 2017

Pursuant to Section 307(d)(7)(B) of the Clean Air Act (CAA)¹ and Section 553(e) of the Administrative Procedures Act (APA),² the Air Permitting Forum (APF or Forum) respectfully petitions the U.S. Environmental Protection Agency (EPA or Agency) to reconsider the nationally applicable final action entitled, *Protection of Stratospheric Ozone: Update to the Refrigerant Management Requirements Under the Clean Air Act, Final Rule*, 81 Fed. Reg. 82,272 (Nov. 18, 2016), codified at 40 C.F.R. Part 82, EPA-HQ-OAR-2015-0453 (Final Rule). As a courtesy, the Forum notes that it has also filed a petition for judicial review of the Final Rule and that it intends to raise in that litigation the issues on which reconsideration is requested below.

ARGUMENT

I. EPA Should Reconsider the Decision To Expand the Scope of the Refrigerant Management Requirements by Including “Substitutes” in the Rule Applicability Along With Class I And Class II Refrigerants.

In the final rule, EPA revised the “scope” of refrigerant management provisions by:

The purpose of this subpart is to reduce emissions of class I and class II refrigerants and their non-exempt substitutes to the lowest achievable level by maximizing the recapture and recycling of such refrigerants during the service, maintenance, ~~service~~, repair, and disposal of appliances and restricting the sale of refrigerants consisting in whole or in part of a class I or class II ODS ~~ozone-depleting substance~~ or their nonexempt substitutes in accordance with Title VI of the Clean Air Act.³

In addition, EPA revised the definition of “appliance” by:

Appliance means any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner, refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.⁴

In so doing, EPA expanded the rule to apply the detailed refrigerant management requirements to all substitutes. The original rule was designed to apply the requirements to chemicals impacting stratospheric ozone, but expanding the rule to include chemicals that have a high global warming potential, but no or limited impact on stratospheric ozone, is inconsistent with the intent of Section 608 of the CAA.

EPA appropriately recognizes in the Final Rule that CAA Section 608(a) requires EPA to promulgate regulations that apply to *class I and class II substances*, and it does not provide that

¹ 42 U.S.C. § 7607(d)(7)(B).

² 5 U.S.C. § 553(e).

³ Compare 40 C.F.R. § 82.150 (2016) with 81 Fed. Reg. at 82,349 (40 C.F.R. § 82.150).

⁴ Compare 40 C.F.R. § 82.152 (2016) (definition of Appliance) with 81 Fed. Reg. at 82,349 (40 C.F.R. § 82.152).

authority for substitutes.⁵ EPA further recognizes that Section 608(c)(2) does explicitly apply to substitutes, extending the venting prohibition below to substitutes as of 1995:

(1) Effective July 1, 1992, it shall be unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance (or industrial process refrigeration) in a manner which permits such substance to enter the environment. De minimis releases associated with good faith attempts to recapture and recycle or safely dispose of any such substance shall not be subject to the prohibition set forth in the preceding sentence.

(2) Effective 5 years after November 15, 1990, paragraph (1) shall also apply to the venting, release, or disposal of any substitute substance for a class I or class II substance by any person maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration which contains and uses as a refrigerant any such substance, unless the Administrator determines that venting, releasing, or disposing of such substance does not pose a threat to the environment. For purposes of this paragraph, the term “appliance” includes any device which contains and uses as a refrigerant a substitute substance and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.⁶

EPA posits that the effect of Sections 608(a) and 608(c)(2) is to create a statutory ambiguity with respect to how a person might know whether he or she is “knowingly vent[ing]” or “otherwise knowingly releas[ing]” a substitute. Specifically, EPA states:

Section 608 of the CAA is ambiguous with regard to EPA’s authority to establish refrigerant management regulations for substitute refrigerants. As Congress has not precisely spoken to this issue, EPA has the discretion to adopt a permissible interpretation of the CAA. *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 843-44 (1984). Primarily under the authority of section 608(a), EPA has established standards for the proper handling of ODS refrigerants during the maintenance, service, repair, or disposal of an appliance to maximize the recovery and/or recycling of such substances and reduce the use and emission of such substances. Section 608(a) expressly requires EPA to promulgate regulations that apply to class I and class II substances, but is silent on whether its requirements apply to substitute substances. On the other hand, section 608(c)(2) contains provisions for substitute refrigerants which parallel those for ODS refrigerants in section 608(c)(1). For instance, as for ODS refrigerants under section 608(c)(1), section 608(c)(2) prohibits knowingly venting, releasing, or disposing of any substitute refrigerant in the course of maintenance, servicing, repairing, or disposing of an appliance in a manner which permits the substance to enter the environment. This creates a tension or ambiguity because the regulated

⁵ 81 Fed. Reg. at 82,283.

⁶ 42 U.S.C. § 7671g(c).

community is subject to an explicit and self-effectuating prohibition on venting, releasing, or disposing of non-exempt substitute refrigerants while maintaining, servicing, repairing, or disposing of equipment but at the same time is not explicitly required by section 608(a) to recover substitute refrigerant prior to servicing or disposing of equipment or to engage in any of the practices or behaviors that EPA has established to minimize the emission and release of ODS refrigerants during such maintenance, service, repair, or disposal.⁷

EPA goes on to suggest that establishing this new and expansive regulatory program will be helpful to industry because, otherwise, the regulated public would have no way of knowing what constitutes an action that runs afoul of the prohibition on knowing releases:

Moreover, some amount of refrigerant, whether ODS or substitute, is inevitably released during the maintenance, servicing, repair, and disposal of air-conditioning or refrigeration appliances or equipment. Without a clear regulatory framework for determining what requirements apply during the maintenance, servicing, repair, and disposal of such equipment containing a non-exempt substitute refrigerant, the regulated community and the public would not have the same measure of certainty as to whether such releases violate the venting prohibition or fall within the *de minimis* exemption to that prohibition, and what steps must be taken to comply with CAA obligations for such substitute refrigerants in undertaking such actions. Accordingly, this rulemaking finalizes regulations to interpret and explain how the venting prohibition and the *de minimis* exemption apply to non-exempt substitute refrigerants. In doing so, EPA is clarifying that the regulated community that uses non-exempt substitute refrigerants may rely on the *de minimis* exemption to the venting prohibition if they follow the amended requirements in subpart F.⁸

Contrary to EPA's suggestion in the preamble to the Final Rule, there is no ambiguity in the statute regarding EPA's authority to create a comprehensive regulatory program akin to that applicable to class I and class II substances for non-exempt substitutes. There is no such authority. In CAA Section 608(a), Congress granted EPA explicit and narrow authority to create a regulatory program for class I and class II substances. In Section 608(c), Congress established intentional venting prohibitions immediately for class I and class II substances, with subsequent applicability to substitutes. These provisions were enacted simultaneously, indicating that Congress was fully aware and capable of granting EPA authority to regulate substitutes under CAA Section 608(a). It chose not to do so and there is nothing ambiguous about that decision.

EPA cannot bootstrap authority to create a comprehensive regulatory program where one is not authorized out of the venting prohibition. If a company *chose* to follow EPA's regulations for class I and class II substances for substitutes, that could create a safe harbor to establish that a release was not a violation of the venting prohibition, but that does not mean that EPA has the authority to create a regulatory program that Congress did not authorize EPA to create (*i.e.*, a singular predicate for establishing that there has not been a violation of the venting prohibition

⁷81 Fed. Reg. at 82,283-84 (citation omitted).

⁸ 81 Fed. Reg. at 82,284.

by establishing a costly regulatory program that is co-extensive with the program for class I and class II substances).

That Congress did not provide any explicit grant of authority for EPA to establish a regulatory program for substitutes indicates that no such authority exists – *i.e.*, Congress reserved to itself the authority to determine in legislation if further regulation of substitutes would be appropriate. Given that Congress did provide such authority for class I and class II substances, it is clear that if it wanted to give EPA authority to establish a CAA Section 608(a)-type program for substitutes, it certainly knew how to say so. A canon of statutory construction is that “‘where Congress knows how to say something but chooses not to do so, its silence is controlling.’”⁹ In *Union of Concerned Scientists*, the D.C. Circuit stated, “[w]ere we to ascribe no meaning to [Congress’] choice of language, we would ignore our duty to pay close heed to both what Congress said and what Congress did not say in the relevant statute.”¹⁰

This principle was recently reaffirmed by the D.C. Circuit in evaluating the authority of the U.S. Fish and Wildlife Service to bar importation of polar bear trophies under the Marine Mammal Protection Act. Writing for the court, Judge Tatel rejected hunting organizations’ argument that import prohibitions apply only to polar bears taken after the species became depleted, citing to language that prohibits importation of marine mammals “taken from a species or pollution stock which the Secretary has . . . designated as a depleted species or stock.”¹¹ He placed weight on the fact that Congress used the word “has” instead of “had” with the latter being the word necessary to support the petitioners’ reading. He further supported his conclusion with the fact that other provisions of the statute expressly limited their applicability to “at the time of taking” indicating that the absence of such language in the provision at issue showed the omission was intentional, citing *Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 452 (2002) for the proposition that when “‘Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.’”¹² Nor can EPA rely on Section 301 of the Act to support its expansion of regulatory authority over substitutes. As EPA indicates, CAA Section 301(a) provides authority to “prescribe such regulations as are necessary to carry out [the EPA Administrator’s] functions under this Act.”¹³ While rulemaking grants such as the one in Section 301 may be intended to fulfill the purposes of the Act, not just the administrative functions of the agency,¹⁴ where a specific provision of the Act has addressed an issue, as it does here, EPA cannot rely on Section 301’s general authority to effectively change that provision. As the D.C. Circuit has explained in *NRDC v. Reilly*:

In the past, we have not allowed the general grant of rulemaking power embodied in section 301 to trump the specific provisions of the Act. Thus, in *Sierra Club v.*

⁹ *Arcia v. Florida Sec’y of State*, 772 F.3d 1335 (11th Cir. 2014) (quoting *CBS Inc. v. PrimeTime 24 Joint Venture*, 245 F.3d 1217, 1226 (11th Cir. 2001)); See also *Union of Concerned Scientists v. U.S. Nuclear Regulatory Comm’n*, 824 F.2d 108 (D.C. Cir. 1987) and cases cited therein, holding that where Congress intended EPA to take economic considerations into account in setting regulatory standards, it knew how to say so.

¹⁰ *Union of Concerned Scientists*, 824 F.2d at 115.

¹¹ *In re Polar Bear Endangered Species Act Listing and Section 4D Rule Litig.*, 720 F.3d 354, 361-62 (D.C. Cir. 2013) (quoting 16 U.S.C. § 1372(b)(3)).

¹² *Id.* (quoting *Russello v. United States*, 464 U.S. 16, 23 (1983)).

¹³ 81 Fed. Reg. at 82,283.

¹⁴ See *Am. Petroleum Inst. v. EPA*, 540 F.2d 1023, 1029-30 (10th Cir. 1976).

EPA, 719 F.2d 436, 452-53 (D.C. Cir. 1983), *cert. denied*, 468 U.S. 1204, 104 S. Ct. 3571, 82 L. Ed. 2d 870, (1984), we rejected the EPA's effort to use section 301 as justification for adding a new factor to a list of exceptions under the Act because the "EPA's construction of the statute is condemned by the general rule that when a statute lists several specific exceptions to the general purpose, others should not be implied." Similarly, in *Alabama Power Co. v. Costle*, 636 F.2d 323, 403 (D.C. Cir. 1979), we found that section 301 did not empower the EPA to extend its authority to review modifications of industrial facilities beyond the limits established by Congress in the Act. Compare *ASG Industries, Inc. v. Consumer Product Safety Comm'n*, 593 F.2d 1323, 1334-35 and nn. 48-49 (D.C. Cir.) (agency may defer effective date of regulation where statute included implementation schedule but specifically empowered delay of regulation's effective date upon showing of good cause), *cert. denied*, 444 U.S. 864, 100 S. Ct. 133, 62 L. Ed. 2d 87 (1979). Consistent with our past decisions, we decline to read such open-ended power into section 301.¹⁵

Following *NRDC*, in 1995, the D.C. Circuit stated that "EPA cannot rely on its general authority to make rules necessary to carry out its functions when a specific statutory directive defines the relevant functions of EPA in a particular area."¹⁶ The *American Petroleum* Court went on to hold that EPA could not use CAA Section 301 to issue rules that went beyond the authority granted under Section 211's reformulated gasoline provisions.¹⁷ For the same reasons, EPA cannot rely on CAA Section 301 and Section 114 to support this regulatory expansion.

Practically speaking, applying the detailed refrigerant management requirements to all substitutes, regardless of a potential stratospheric ozone impact, discourages the development of substitutes as it eliminates the incentive to operate with fewer regulatory requirements. In addition, substitutes have generally already been approved as part of EPA's Significant New Alternatives Policy (SNAP), which demonstrates that the substitutes pose lower risk overall to human health and the environment.

Also, CAA Section 601(1) already defines appliance, and the term "substitute" is not included. The CAA clearly did not indicate that substitutes should be considered in the definition of appliance for applicability of the Section 608(a) standards.

¹⁵ *NRDC v. Reilly*, 976 F.2d 36, 41 (D.C. Cir. 1992).

¹⁶ *Am. Petroleum Inst. v. EPA*, 52 F.3d 1113, 1119 (D.C. Cir. 1995). EPA also cannot rely on *Citizens to Save Spencer County v. EPA*, 600 F.2d 844, 873 (D.C. Cir. 1979) to support its action here. While that court held that Section 301 did provide some authority for EPA to issue a substantive regulation, there the agency was faced with a substantive conflict between statutory provisions, Sections 165 and 168, establishing different timing for implementation of a construction ban under the Act. EPA issued a rule under its Section 301 authority to resolve the conflict, adopting a middle ground approach. In upholding EPA's authority to issue the rule under Section 301, the Court stated that "[s]uch a provision [Section 301] does not provide the Administrator with carte blanche authority to promulgate any rules, on any matter relating to the Clean Air Act, in any manner that the Administrator wishes."

¹⁷ *Am Petroleum Inst.*, 52 F.3d at 1120; *Cf. In re Permanent Surface Mining Regulation Litig.*, 653 F.2d 514 (D.C. Cir. 1981), (holding Clean Water Act general rulemaking provision, Section 501, allows EPA to require additional information in permit applications notwithstanding specific list in the applicable statutory provision) and *Pronsolino v. Nastri*, 291 F.3d 1123, 1131 (9th Cir. 2002) (holding that Clean Water Act Section 501 authorizes EPA to enact regulations regarding the identification of Section 303(d)(1) waters and TMDLs).

The term “appliance” means any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.¹⁸

After over 20 years of stratospheric ozone regulations, EPA is just now seeing the need to “clarify” the regulations as a basis to greatly expand regulatory requirements for substitutes, independent of the environmental benefit of further regulations.

In addition, expanding the applicability will necessitate changes to facility Title V operating permits and compliance assurance systems as facilities will have additional regulatory requirements. There is no indication that this cost was considered in developing the expanded regulation.

EPA should reconsider its decision to add “substitutes” to the rule scope and “substitutes” should be removed from the definition of appliances. It is the Forum’s view that industry does not need added regulation to determine if they meet the requirements of the no venting provisions for substitutes. Companies meet the requirements by operating equipment as leak-free as reasonably possible and through the use of generally accepted management practices. This can be done with no or minimal regulatory burden.

II. EPA Should Reconsider the Decision to Amend the Definition of “Appliance” to Include “Motor Vehicle Air Conditioner.”

As mentioned above, EPA revised the definition of “appliance” by:

Appliance means any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner, refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.¹⁹

The Forum believes, in addition to the scope expansion described above, that it is inappropriate to expand the term appliance to include motor vehicle air conditioner (MVAC) and it will lead to conflict, confusion and compliance problems. Section 82.152 already contains a definition for MVAC and it properly defines it consistent with its definition in 40 C.F.R. Part 82, Subpart B (Section 82.30 through Section 82.42).²⁰ Subpart B contains the MVAC (and many MVAC-like) requirements as it implements Section 609 of the CAA. Expanding the term “appliance” will likely lead to confusion about which requirements are appropriate and applicable to servicing of MVACs by the certified mechanics.

The Forum also notes that Congress clearly defined the term “appliance” in CAA Section 608(c)(2) to include “any device which contains and uses as a refrigerant a substitute substance and which is used for *household or commercial purposes*, including any air conditioner,

¹⁸ 42 U.S.C. § 7671(1).

¹⁹ Compare 40 C.F.R. § 82.152 (2016) (definition of Appliance) with 81 Fed. Reg. at 82,349 (40 C.F.R. § 82.152).

²⁰ 40 C.F.R. § 82.152 (definition of MVAC).

refrigerator, chiller, or freezer.”²¹ Congress expressly used the term household or commercial purposes to limit appliances to stationary equipment and thus did not intend appliance to refer to MVAC. If it had, Congress would not have needed to enact Section 609 of the CAA.

All of the servicing requirements pertaining to MVACs are (and should be) addressed in the Subpart B regulations as Congress intended. Most of the provisions and terms under Subpart F that incorporate the term “appliance” have no reference to, or corresponding term or provision in Subpart B, thus both the regulated community and the public will be confused as to how the proposed changes to Subpart F will be applied to motor vehicle servicing and repair.

EPA should reconsider its decision to include the term “motor vehicle air conditioner” in the definition of appliance. Instead, if EPA believes that there are rule gaps or changes necessary to how servicing of MVACs should be performed, then it should revise the regulations under 40 C.F.R. Part 82, Subpart B and avoid any confusion and potential conflicts that defining the term appliance to include vehicle air conditioners will generate.

III. EPA Should Reconsider the Decision to Amend Section 82.156(a)(3) by Adding New Recordkeeping Requirements For Persons Evacuating Refrigerant From Appliances.

In the Final Rule, EPA amended 40 C.F.R. Section 82.156(a)(3) of the proposed revisions, EPA proposes to add new recordkeeping requirements for persons evacuating refrigerant from appliances.

(3) Recordkeeping. As of January 1, 2018, technicians evacuating refrigerant from appliances with a full charge of more than 5 and less than 50 pounds of refrigerant for purposes of disposal of that appliance must keep records documenting the following for three years:

- (i) The company name, location of the appliance, date of recovery, and type of refrigerant recovered for each appliance;
- (ii) The total quantity of refrigerant, by type, recovered from all disposed appliances in each calendar month; and
- (iii) The quantity of refrigerant, by type, transferred for reclamation and/or destruction, the person to whom it was transferred, and the date of transfer.²²

The Forum does not believe such recordkeeping action is needed. Any refrigerant obtained from retired equipment can be (and should be allowed to be) retained by the facility or company for use in any of its other operable equipment. The Forum also notes that refrigerant reclaimers are already required to keep records of the refrigerant sent to them for reclamation, thus this requirement is duplicative.

This rule expansion is overly burdensome in its scope, as in many cases facilities with tens of large units (containing > 50 lbs of refrigerant) have on the order of hundreds (and nearly one thousand in larger sites) of smaller units (>5 and < 50 lbs of refrigerant). All of these units would require an additional level of tracking and recordkeeping that is simply unnecessary.

²¹ 42 U.S.C. § 7671g (emphasis added).

²² 81 Fed. Reg. at 82,354 (40 C.F.R. § 82.156(a)(3)).

Currently, due to the general prohibition on venting refrigerant from any unit regardless of the size, industry has the burden of proof regarding its management of smaller units through the maintenance and disposal process. This has, in effect, created a system of basic recordkeeping, in the form of log notes, *etc.*, that can meet the intent of the rule without requiring additional and very specific duplicative information. In addition, refrigerant is a cost that industry must manage. Prudent and economical use of this resource, by maintenance teams dealing with tight budgets, can be relied upon, in part, as a guiding principle for proper management of these chemicals. The agency has failed to show that additional recordkeeping will ensure a better level of management of the release of these chemicals than both the rules currently in place and the over-arching facility systems that manage them.

EPA should reconsider its decision to adopt these recordkeeping requirements under 82.156(a)(3).

IV. EPA Should Reconsider the Decision to Finalize Changes to Sections 82.156(a)(3) and 82.157(j).

Clean Air Act Section 307(d)(7)(B) provides:

Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit (as provided in subsection (b) of this section). Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.²³

A. Section 82.156(a)(3)

EPA proposed and finalized new recordkeeping requirements in Section 82.156(a)(3) that encompass units upwards of 5 pounds. The Forum objected to this provision on the grounds that the information is already available and these requirements are both duplicative and burdensome. In the final rule, EPA maintained the proposed requirement and added extensive new claims regarding the need for this provision.²⁴ Commenters did not have an opportunity to comment on these claims and therefore could not contest or place in the record contrary information. Moreover, EPA's response to comments does not address the expansion down to units containing

²³ 42 U.S.C. § 7607(d)(7)(B) (emphasis added).

²⁴ 82 Fed. Reg. at 82,312-13.

5 pounds or more. Had EPA solicited comment on these issues and provided the information that is now included in the final rule, EPA might have received comments (including from the Forum) indicating where an appropriate cutoff would be in light of this new information. Accordingly, the Forum requests that EPA convene a reconsideration proceeding to address these issues.

B. Section 82.157(j)

In the November 9, 2015 Proposed Rule,²⁵ EPA proposed to add a new 2-year leak limit in Section 82.157(j):

Two-year leak limit. Appliances containing 50 pounds or more of refrigerant are prohibited from leaking more than 75 percent of the full charge in each of two consecutive twelve-month periods. Under paragraph (c) of this section, the leak rate must be calculated every time refrigerant is added to an appliance. By the end of the second twelve-month period, appliances that exceed this limit must be retired or mothballed until retired.²⁶

In the Final Rule, EPA stated that in “response to the significant concerns raised by commenters, EPA is not finalizing this proposed two year leak limit.”²⁷ Instead, it was revising the provision to require a new reporting requirement that was “not contained in the proposed rule.”²⁸

(j) *Chronically leaking appliances.*

Owners or operators of appliances containing 50 pounds or more of refrigerant that leak 125 percent or more of the full charge in a calendar year must submit a report to EPA at the address in paragraph (m) of this section. This report must be submitted by March 1 of the subsequent year and describe efforts to identify leaks and repair the appliance.²⁹

The Final Rule stated that

EPA is adding this report to provide added flexibility, so that appliances that have leaked 125 percent of their full charge or greater do not necessarily need to be retired or retrofitted provided there is an explanation for the leak. This report must explain the reason for the leak rate of 125 percent or greater and could potentially include, among other things, the documentation prepared to extend the repair requirement or a description of catastrophic events. As discussed earlier in

²⁵ EPA, *Protection of Stratospheric Ozone: Update to the Refrigerant Management Requirements Under the Clean Air Act; Proposed Rule*, 80 Fed. Reg. 69,458 (Nov. 9, 2015).

²⁶ 80 Fed. Reg. at 69,523 (Proposed 40 C.F.R. § 82.157(j)).

²⁷ 81 Fed. Reg. at 82,329.

²⁸ 81 Fed. Reg. at 82,331-32.

²⁹ 81 Fed. Reg. at 82,359 (40 C.F.R. § 82.157(j)).

this notice, this reporting requirement is based on comments received to remove the two-year leak limit and allow for case-by-case evaluations.³⁰

By raising the threshold, EPA intends to avoid capturing appliances affected by unavoidable losses of full charge. Systems would have to lose their full charge and then a significant quantity more.³¹

The criteria for convening a reconsideration proceeding are plainly met here. EPA finalized changes to 82.157(j) that were not in the Proposed Rule. In so doing, (i) it was impossible for a member of the public to know that EPA might change these provisions, particularly in the manner it did, and thus impracticable to raise an objection during the comment period, and (ii) the grounds for objecting arose after the close of the comment period. Moreover, the ability to operate refrigeration units that are experiencing leaks is of central relevance to this rulemaking.

Specifically, EPA should have solicited comment on the 125 percent threshold over a *one-year period* and its appropriateness. EPA has changed not only the threshold but also the period of measurement—without explaining how it determined these values. Had EPA issued a supplemental notice and sought comment, commenters could have raised concerns regarding EPA's conclusion (which appears to have no basis in the record) that this threshold and time period would avoid capturing units that have had an unavoidable loss of the full charge.

* * * * *

For the foregoing reasons, we respectfully request that you convene a reconsideration proceeding to address the issues outlined above.

³⁰ 81 Fed. Reg. at 82,331-32.

³¹ 81 Fed. Reg. at 82,330.

Respectfully submitted,



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Counsel for the Air Permitting Forum

Dated: January 17, 2017

CERTIFICATE OF SERVICE

A copy of the preceding was sent on January 17, 2017 to the Honorable Gina McCarthy *via* facsimile, certified mail and email. In addition, a copy was also sent to the Honorable Janet McCabe and the Honorable Avi Garbow *via* certified mail and email.

The Honorable Gina McCarthy
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mccarthy.gina@epa.gov
Fax No.: 202-501-1450

The Honorable Janet McCabe
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The Honorable Avi Garbow
U.S. Environmental Protection Agency
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Shannon S. Broome

EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Clean Water Act: Law and Regulation 2017

3:00pm – 4:30pm, Monday, November 4

Washington, D.C.

1. Panel Description.

As the Trump Administration's EPA settles into 1200 Pennsylvania Avenue it brings a new perspective, a shift in policy focus, and a different way of doing business. This panel will draw on current and former EPA personnel to explore EPA's policy and enforcement priorities in the context of the Clean Water Act and the challenges it may face. Issues to be explored include the substantive issues beyond the "waters of the United States" rulemaking that are a priority for the Agency, any changes in the focus of EPA's enforcement priorities, and any shifts in the way the Agency is organized and functions, among other issues.

2. Moderator & Panelists.

- a. *Moderator:* Samuel Brown, Senior Attorney, Hunton & Williams, LLP, San Francisco, CA
- b. Samantha Dravis, Senior Counsel and Associate Administrator, Office of Policy, U.S. Environmental Protection Agency, Washington, D.C.
- c. Patrick Traylor, Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, Washington, D.C.
- d. Mark A. Ryan, Ryan & Kuehler PLLC, former EPA attorney, Winthrop, WA

3. Panel Format (90 minutes).

- a. S. Brown (10 minutes): introduce panelists and frame the topics of the panel.
- b. Moderated Questions on EPA Policy and Operational Priorities (15 minutes).
- c. Moderated Questions on EPA Substantive Priorities for the Office of Water (15 minutes).
- d. Moderated Questions on EPA Enforcement Priorities (30 minutes).
- e. Questions from Audience (20 minutes).

4. Representative Moderator Questions.

- a. Moderated Questions on EPA Policy and Operational Priorities (15 minutes)
 - i. How does the Office of Policy fit within EPA's organizational structure?
 - ii. What is the role and responsibility of the Office of Policy?

- iii. Administrator Pruitt has described the Agency's key principles to include (1) the importance of process; (2) adherence to the rule of law; and (3) the applicability of cooperative federalism. Can you explain what each of those principles means and how they will be incorporated into the Agency's work, generally, and in the context of the CWA programs?
 - iv. In October, Administrator Pruitt signed a memorandum on "sue and settle," can you explain the intent and likely impact of this memorandum?
 - v. Will the October memorandum likely result in EPA litigating more challenges (and reaching a decision on the merits), as opposed to a settlement and a consent decree?
 - vi. There has been talk of re-organization of the Agency (*e.g.*, consolidation of EPA Regions, placement of enforcement back into the program offices, etc.); will there be any re-organization of the Agency?
- b. Moderated Questions on EPA Substantive Priorities for the Office of Water (15 minutes).
 - i. Looking past WOTUS, what are the Agency's substantive priorities for the Office of Water? What other rulemaking will the public likely see from the Office of Water in the next year and over the course of the next 3 years?
 - ii. There have been public statements related to the Office of Water conducting rulemaking related to the CWA 404 permitting program (separate from the WOTUS rulemaking), what is the Agency looking to address as part of any 404 permitting rulemaking?
 - iii. There is significant Circuit Court litigation related to what EPA has described as the "direct hydrologic connection" theory of CWA liability. Does EPA intend to provide additional guidance, conduct rulemaking, or otherwise further address this issue?
 - iv. President Trump has emphasized infrastructure as a priority; will this EPA prioritize water-related infrastructure and, if yes, what are its plans for doing so?
- c. Moderated Questions on EPA Enforcement Priorities (30 minutes).
 - i. What are EPA's CWA enforcement priorities?
 - ii. What enforcement metrics will OECA examine to determine if the program is a "success"?
 - iii. Does OECA envision the States taking a bigger role in enforcement? If yes, what types of cases will EPA focus its enforcement efforts?
 - iv. Does OECA intend to shift focus from the current CWA National Enforcement Initiatives (NEI) that were finalized in the prior Administration?
 - v. How does OECA view the future of the very mature NEI focused

on municipal combined and sanitary sewer systems? Will it still be a priority?

vi. Is “Next Generation Compliance” still a priority for OECA?

vii. Does OECA intend to continue to push for “mitigation” to be part of consent decrees?

viii. If existing CWA consent decrees do not align with Administrator Pruitt’s key principles of (1) process; (2) rule of law; and (3) cooperative federalism, does OECA envision entertaining modifications of those consent decrees?

To: Dravis, Samantha[dravis.samantha@epa.gov]; Poole, Jacqueline[Poole.Jacqueline@epa.gov]; Kime, Robin[Kime.Robin@epa.gov]; Inge, Carolyn[Inge.Carolyn@epa.gov]
Cc: Martin, Dee[Dee.Martin@bracewelllaw.com]; Beaulieu, Curtis[Curtis.Beaulieu@bracewelllaw.com]
From: ROSEN, Michael
Sent: Wed 4/19/2017 9:25:31 PM
Subject: Assoc. Administrator Dravis
[AL Graff to Dravis.pdf](#)

Hello. Attached please find a letter from American Air Liquide Chairman & CEO Mike Graff as a follow up to your recent meeting.
Mike Rosen

--

Michael B. Rosen
Vice President
Corporate Communications & Public Affairs - Americas

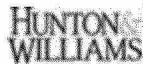
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To: Bolen, Brittany[bolen.brittany@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Inge, Carolyn[Inge.Carolyn@epa.gov]; Kime, Robin[Kime.Robin@epa.gov]
From: Broome, Shannon S.
Sent: Wed 4/26/2017 8:53:22 PM
Subject: RE: Call with Hunton & Williams re: Air Permitting Forum – EPA to Call (415) 818-2275

All – I will be sharing some materials on my screen during the meeting so please click on this link. We won't use the dial in number, just the link to view my screen.

<https://meetings.webex.com/collabs/#/meetings/detail?uuid=MBSD0SEL4R7PZIMHXYPZX38F5D-2MDP&rnd=486612.88018>

Best regards,



**Shannon S.
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Check out Hunton's new Environmental and Energy Law Blog!

<https://www.huntonnickelreportblog.com/>

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-----Original Appointment-----

From: Kime.Robin@epa.gov [<mailto:Kime.Robin@epa.gov>] **On Behalf Of** Bolen, Brittany
Sent: Tuesday, April 25, 2017 7:15 PM
To: Bolen, Brittany; Broome, Shannon S.; Dravis, Samantha; Inge, Carolyn; Kime, Robin
Subject: Call with Hunton & Williams re: Air Permitting Forum – EPA to Call (415) 818-2275
When: Wednesday, April 26, 2017 5:15 PM-5:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3513E

Topic: Call with Hunton & Williams re: Air Permitting Forum – EPA to Call (415) 818-2275

Date: 4/26

Location: 3513E

Required: sbroome@hunton.com

Cc: Inge, Carolyn <Inge.Carolyn@epa.gov>; Kime, Robin Kime.Robin@epa.gov

Time: 5:15 – 5:30 p.m.

To: Dravis, Samantha[dravis.samantha@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Kime, Robin[Kime.Robin@epa.gov]
Cc: Kelly, Kerry[KKelly5@wm.com]; Carol McCabe (CMcCabe@mankogold.com)[CMcCabe@mankogold.com]; Ball, Christopher[cball2@wm.com]; Mack McGuffey (mack.mcguiffey@troutmansanders.com)[mack.mcguiffey@troutmansanders.com]; Kevin Kraushaar (kkraushaar@wasterecycling.org)[kkraushaar@wasterecycling.org]; Barry Shanoff (bss@shanlaw.net)[bss@shanlaw.net]
From: Kelly, Kerry
Sent: Wed 3/15/2017 5:20:32 PM
Subject: Waste Management, Inc. Request for a Meeting
Letter to EPA Acting Officials - Petition for Reconsideration Enclosed (1683559_1).PDF

Dear Ms. Dravis and Mr. Sugiyama:

At the suggestion of Al Collins of Occidental Petroleum (Oxy), who met with you last week and now sings your praises, I am writing to request a meeting with you at your earliest convenience to discuss a set of rules promulgated by EPA pursuant to Section 111 (b) and (d) of the Clean Air Act that impose revised performance standards for both new and existing municipal solid waste (MSW) landfills. The regulations were promulgated as part of President Obama's *Climate Action Plan: Strategy to Reduce Methane Emissions*.

Waste Management, along with Republic Services, the National Waste & Recycling Association and the Solid Waste Association of North America (associations representing both public and private organizations and professionals) identified a number of substantial issues of law and policy with the new rules, including overlap and conflict with existing rules governing the same landfill sources. We have asked EPA to stay, reconsider and revise the two climate-related rules. We petitioners have also challenged the new rules in the U.S. Court of Appeals for the D.C. Circuit.

The landfill rules share similarities with other regulations that EPA may reevaluate, including the Clean Power Plan and Oil & Gas Rules:

- The new rule for existing landfills relies on the same Section 111(d) authority for which the Clean Power Plan has been criticized; and
- The cost/benefit analyses underpinning the more stringent performance standards in the rules rely heavily on the "social cost of methane," which is derived from the "social cost of carbon."